

HUMAN SERVICES BOARD

INTRODUCTION

FINDINGS OF FACT

2. DCF notified the petitioner that it cannot cover payment for "Midrin" ("Durdin") because it is not included in the official drug compendia as approved by the Federal Drug Administration for migraine use. "Midrin" is listed as a "DESI" drug which means that it was approved by the FDA as "safe" sometime between 1938 and 1962 but that it was not

necessary to establish "effectiveness" during that period of approval. The drug has subsequently been found to be "less than effective" and is no longer included as a fully approved FDA drug.

3. The petitioner does not dispute that the drug is not on the FDA approval list but asks for an exception because it works for him and is cheaper than other alternatives.

ORDER

The decision of DCF is affirmed.

REASONS

The VHAP managed care program covers "prescription drugs" subject to "all Medicaid exclusions and limitations." P-4005(B)(10). The Medicaid program specifically excludes coverage for any drug that has been "unfavorably evaluated" or that is not "included or approved for inclusion in the latest edition of official drug compendia." M810.

No exceptions procedure is available to the petitioner as a VHAP recipient but it should be noted that even the Medicaid exceptions procedure will not allow payment for a drug "subject to FDA approval" that has not been approved, even if it is beneficial to the recipient. M108. As DCF's denial of coverage for this non-approved drug is consistent with its

regulations, the Board is bound to affirm its decision. 3

V.S.A. § 3091(d) and Fair Hearing Rule 17.

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